

**CALIFORNIA COASTAL COMMISSION**

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**W19c**

Filed: 7/5/2001  
 49th day (waived): 8/23/2001  
 Staff: Central Coast District  
 Staff report prepared: 9/27/2001  
 Hearing date: 10/10/2001  
 Hearing item number: W19c

## APPEAL STAFF REPORT: SUBSTANTIAL ISSUE DETERMINATION

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**Appeal number**.....**A-3-WAT-01-070 (PVUSD New Millennium High School)**

**Applicant**.....Pajaro Valley Unified School District (PVUSD)

**Appellants**.....Committee for a Safe High School Site (by Sylvia Previtali)  
 Bernard Feldman  
 Daniel Hernandez  
 Norma Johnson  
 Tim Moore  
 Peter Nichols  
 Karell Reader  
 Sierra Club (by George Jammal)  
 Jerry Thomas

**Local government** .....City of Watsonville

**Local decision**.....Approved with Conditions (June 26, 2001)

**Project location**.....North side of Harkins Slough Road within City Coastal Zone Area C (between Hanson Slough and West Branch of Struve Slough) west of Highway One within City of Watsonville city limits in south Santa Cruz County (APNs 018-281-08, 018-281-12, 018-281-14, 018-281-18, 018-281-189).

**Project description**.....Construct 204,500 square foot high school (Pajaro Valley Unified School District's proposed New Millennium High School) with associated ballfields, landscaping, sewer, water, road, and related infrastructure.

**File documents**.....City of Watsonville Certified Local Coastal Program (LCP) and all amendments thereto (through Major Amendment 1-99); City of Watsonville Coastal Development Permit (CDP) Application File 00-28.

**Staff recommendation** ....**No Substantial Issue (decline to take jurisdiction over CDP)**

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**Staff Note:** Once again the staff finds itself in a most difficult position relative to this ever-changing project. And once more the staff has expended great and extra efforts in an attempt to assist the PVUSD (District) in addressing significant and problematic permitting issues relative to the high school project and this appeal of the coastal development permit (CDP) approved by the City of Watsonville (the City). Indeed, because the District insists that "time is of the essence" and any delay of action on the appeal beyond the October meeting will jeopardize "hardship" funding for the project (a claim previously heard



**California Coastal Commission**  
**October 2001 Meeting in San Diego**

Staff: Central Coast District Approved by:  
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that did not materialize) staff has been extremely creative in attempting to craft a mutually satisfactory approach that meets the District's needs consistent with requirements of the Coastal Act and the certified local coastal program (LCP). Although staff recommended that the most effective way to address the material issues raised by the appeal is for the District to return to the City for a permit amendment that addresses the shortcoming identified in the City approved CDP, the District elected not to do that due to concerns about delays and possible loss of funding. Accordingly, staff agreed to work with the District and the City on the approach used here to address issues raised by the appeal in a manner that would enable staff to recommend "no substantial issue."

The approach taken here is without precedent. Before agreeing to it, staff sought legal counsel and received advice that, although not the preferred option, it can work so long as all of the project changes incorporated into the project by the District and agreed to by the City were legally enforceable by the City and binding on the District. Accordingly, staff wrote the District setting forth all the identified problems raised by the appeal (see exhibit T). After follow-up meetings with the District and City, the District responded by identifying changes it had incorporated into and had made an enforceable part of the City approved CDP (see exhibit N). These changes were intended to address problems raised by staff. For the most part they do. Unfortunately, however, some issues remain. To address the remaining problems, staff provided the City and District with a follow-up memo identifying areas in need of further clarification and better specificity in order to achieve a recommendation that "no substantial issue" exists (see exhibit U). The District subsequently incorporated the additional clarifications into its legally enforceable City-approved CDP (see exhibit O). The City, likewise, acknowledged that it accepts all the identified changes as enforceable elements of its CDP (see exhibits P and Q). The assumption here is, that the project changes incorporated by the District are merely "refinements" of the City-approved CDP. In the event the District further clarifies the project to modify staff recommended changes to its project and important LCP safeguards, the staff will have no choice but to withdraw its recommendation and recommend that the Commission find "substantial issue." If that is the outcome or the Commission finds "substantial issue" notwithstanding staff's recommendation, this matter will be scheduled for de novo hearing at a future meeting.

**Summary of Staff Recommendation:** The City of Watsonville approved a 2,200 student, roughly 200,000 square foot high school (in a series of buildings, vehicular areas, playfields, and pathways) on prime agricultural land sandwiched between two arms of the Watsonville Slough System within City limits located west of Highway One in the rural south Santa Cruz County area. This action was preceded last year by a major LCP amendment that allowed public schools as a conditional use at this location subject to a number of specific measures and performance criteria in light of the sensitivity of the Watsonville Slough system on-site, the fertile agricultural lands, the rural agrarian landscape, and the location west of the urban-rural boundary at Highway One.

The nine Appellants claim that the City's approval raises a number of substantial issues with the City's amended LCP. These can be grouped generally into the following categories: **(1) public health and safety:** that the subject site is unsafe for students and educators (due to its proximity to the Watsonville Airport flight path, unmitigated geotechnical problems, pesticide application on adjacent agricultural fields, potential for contact with pesticide residues resident in the proposed school development envelope



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that has historically been farmed; proximity to solid waste landfills, potential for contact with on-site and adjacent sloughs that have accumulated a variety of agricultural and urban toxins, potential for flooding dangers both on-site and off-site (the off-site flooding issue that the ability to access the site during such an event would be compromised); and the potential for contact with organisms and other related gas and matter emanating from the adjacent cattle feedlot); **(2) public viewshed:** that the proposed development would unduly mar the rural agrarian landscape and viewshed west of Highway One with substantial grading and intensive urban development; **(3) urban-rural boundary:** that the development threatens the urban limit line with inadequate protections against potential agricultural conversions, water and sewer utility expansion, inappropriate roadway expansions, and growth inducement west of Highway One; **(4) ESHA and agricultural preservation:** that the development fails to legally and physically protect, restore, and enhance Watsonville Slough resources and buffers on Area C, and agricultural lands and buffers on Area C; and finally **(5) alternative sites available:** because of the above-listed problems at this site together with other pertinent issues (e.g., the contention that the School District cannot demonstrate a need for a school of this magnitude based on School District facility and student projections), that there are feasible alternative sites of a similar developable area (roughly 30 acres), that are located in the applicable attendance area, that are available for development of a high school, and that would have a lesser negative impact on coastal resources and the environment than the current site approved by the City.

In the time since the City took action on the high school and the appeals were filed, Commission staff met with the City, School District, and Assemblyman Fred Keeley's office to discuss a number of appeal issues. Based on these discussions, Commission staff identified a series of potential substantial LCP issues associated with the original City action along with measures that could be taken by the City to perfect their record on their high school approval. These measures were designed to achieve LCP conformance in number of areas including: identifying property ownerships and resulting parcels within Area C; assuring legal protection of the remainder of Area C outside of the high school development area; restoring the ESHA and ESHA buffers associated with West Branch of Struve Slough and Hanson Slough; containing public service extensions, both physically and legally, so that they are only used to serve the high school; assuring legal and physical protection of all required agricultural and ESHA buffer and easement areas; assuring adequate water quality BMPs are implemented; minimizing landform alteration and protecting the public viewshed; confirming the safety of the site in light of adjacent Watsonville airport operations; protecting the water source for adjacent farmers; and ensuring adequate geotechnical measures are taken to ensure long-term structural stability.

In response, the School District committed to a series of project modifications and requirements that the City agreed to implement as part of their original approval. Several aspects of the District's September 13, 2001 "clarification" memo were open to substantial interpretation or lacked necessary clarity. Therefore, Commission staff again identified key elements that needed strengthening to meet LCP requirements. The District subsequently incorporated these additional clarifications into their approved



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project and the City agreed to enforce them.<sup>1</sup>

The Commission notes that even with these after-the-fact CDP clarifications made by the District and the City, the Appellants raise a number of valid issues with the City's approval. That these issues are valid is not surprising in light of the range of coastal resource impacts associated with any development of this site, particularly in light of the level of intensity represented by a 2,200 student, 200,000 square foot high school with associated playfields, parking and vehicular areas, and requisite off-site improvements. These issues must be tempered, however, by the District-identified need for a third high school in the south County area to serve a high school population that has apparently outgrown the District's existing high school facilities, and will apparently continue to do so in the future. Certainly the urban intensity of the high school proposed will forever alter the simple open space and agrarian landscape west of Highway One, will result in conversion of prime agricultural lands, will put substantial urban development on the rural side of the urban limit line, will impact Hanson and West Branch Struve Slough resources and overland habitat connectivity, and will result in a greater threat of agricultural conversion and overall growth inducement on adjacent County agricultural lands west of Highway One. However, these impacts were well known last year when the Commission certified the LCP policies that would allow the high school to be developed at this site. Such impacts cannot be avoided when such an intensive use is proposed on such a resource-constrained site. Accordingly, the Commission included a series of performance standards and mitigations in the amended certified LCP designed to address such impacts to the degree feasible. Thus, the primary charge to the Commission is to evaluate whether or not the City's approval raises any substantial issues with respect to the requirements of the LCP.

Based on the level of need for additional high school capacity identified by the District, based on the District and State Department of Education choice of this site as the appropriate site to educate high schoolers, based on the District and City analysis that there is no feasible alternative location to pursue a high school, and based on the additional clarification of commitments made by the District and agreed to by the City to meet LCP requirements, staff recommends that the Commission find that the issues raised by the Appellants do not rise to the level of substantial issues with respect to this project's conformance with the certified City of Watsonville LCP, and, thus, that the Commission decline to take jurisdiction over the coastal development permit for the project.

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<sup>1</sup> Again, see exhibits N and O for the District's clarifications, exhibits P and Q for the City's response, and exhibits T and U for Commission staff memos to the District on LCP issues and potential solutions. Note that exhibit O includes exhibit U by reference.



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Exhibit F: Appeal of Daniel Hernandez (4 pages)	
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Exhibit I: Appeal of Peter Nichols (32 pages)	
Exhibit J: Appeal of Karell Reader (4 pages)	
Exhibit K: Appeal of Sierra Club (by George Jammal) (4 pages)	
Exhibit L: Appeal of Jerry Thomas (4 pages)	
Exhibit M: PVUSD Response to Appeals Submitted (62 pages)	
Exhibit N: PVUSD September 13, 2001 Project Clarification (36 pages)	
Exhibit O: PVUSD September 26, 2001 Project Clarification (1 page)	
Exhibit P: City September 17, 2001 Acceptance of PVUSD 9/13/2001 Project Clarification (2 pages)	
Exhibit Q: City September 27, 2001 Acceptance of PVUSD 9/26/2001 Project Clarification (4 pages)	
Exhibit R: High School Site Existing Topography (1 page)	
Exhibit S: City-Approved Clarified Project Site Plan (1 page)	
Exhibit T: Commission Staff August 30, 2001 LCP Issues and Possible Solutions Letter (33 pages)	
Exhibit U: Commission Staff September 25, 2001 Response to PVUSD 9/13/2001 Letter (8 pages)	
Exhibit V: Commission Staff January 8, 2001 NOP Comments (5 pages)	
Exhibit W: Commission Staff April 16, 2001 Draft EIR Comments (12 pages)	
Exhibit X: Correspondence Received from Appellants (9 pages)	
Exhibit Y: Selected Applicable LCP Policies (55 pages)	

## 1. Local Government Action

On June 26, 2001, the Watsonville City Council unanimously approved the proposed project subject to



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100 conditions (see exhibit B for the City's adopted staff report, findings and conditions on the project). Notice of the City Council's action on the coastal development permit (CDP) was received in the Commission's Central Coast District Office on July 2, 2001. The Commission's ten-working day appeal period for this action began on July 3, 2001 and concluded at 5pm on July 17, 2001. Nine valid appeals (see below) were received during the appeal period.

## 2. Appeal Procedures

Coastal Act Section 30603 provides for the appeal of approved coastal development permits in jurisdictions with certified local coastal programs for development that is: (1) between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tideline of the sea where there is no beach, whichever is the greater distance; (2) on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff; (3) in a sensitive coastal resource area; (4) for counties, not designated as the principal permitted use under the zoning ordinance or zoning district map; and (5) any action on a major public works project or energy facility. This project is appealable because it is a major public works project, and because the site includes portions of Hanson and West Branch Struve Slough wetlands.

The grounds for appeal under Section 30603 are limited to allegations that the development does not conform to the standards set forth in the certified LCP or the public access policies of the Coastal Act. Section 30625(b) of the Coastal Act requires the Commission to conduct a de novo coastal development permit hearing on an appealed project unless a majority of the Commission finds that "no substantial issue" is raised by such allegations. Under Section 30604(b), if the Commission conducts a de novo hearing, the Commission must find that the proposed development is in conformity with the certified local coastal program. Section 30604(c) also requires an additional specific finding that the development is in conformity with the public access and recreation policies of Chapter 3 of the Coastal Act, if the project is located between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone. This project is not located between the nearest through public road and the sea, and thus this additional finding need not be made in a de novo review in this case.

## 3. Appellants' Contentions

The nine Appellants raise a full range of issues implicating many LCP policies applicable to the proposed project. In summary, these issues generally fall within five broader categories as follows:

- (1) **Public Health and Safety.** Appellants generally contend that the subject site is unsafe for students and educators (due to its proximity to the Watsonville Airport flight path, unmitigated geotechnical problems, pesticide application on adjacent agricultural fields, potential for contact with pesticide residues resident in the proposed school development envelope that has historically been farmed; proximity to solid waste landfills, potential for contact with on-site and adjacent sloughs that have



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accumulated a variety of agricultural and urban toxins, potential for flooding dangers both on-site and off-site (the off-site flooding issue that the ability to access the site at all during such an event would be compromised); and the potential for contact with organisms and other related gas and matter emanating from the adjacent cattle feedlot);

- (2) **Public viewshed.** Appellants generally contend that the proposed development would unduly mar the rural agrarian landscape and viewshed west of Highway One with substantial grading and intensive urban development;
- (3) **Urban-rural boundary.** Appellants generally contend that the proposed development threatens the urban limit line with inadequate protections against potential agricultural conversions, water and sewer utility expansion, inappropriate roadway expansions, and growth inducement west of Highway One;
- (4) **ESHA and agricultural lands and buffers.** Appellants generally contend that the development fails to legally and physically protect, restore, and enhance Watsonville Slough resources and buffers on Area C, and agricultural lands and buffers on Area C; and finally,
- (5) **Alternative sites available.** Appellants generally contend that because of the above-listed problems at this site together with other pertinent issues (e.g., the contention that the School District cannot demonstrate a need for a school of this magnitude based on School District facility and student projections), that there are feasible alternative sites of a similar developable area (roughly 30 acres) that are located in the applicable attendance area, that are available for development of a high school, and that would have a lesser negative impact on coastal resources and the environment than at the current site, the City's approval conflicting with the LCP's requirement for finding that "there is no feasible alternative location" before approving a high school at this site.

Please note that individual Appellants have provided lesser and greater levels of detail in their respective appeals, but that these 5 areas generally encompass the range of LCP issues that derive from them when read together. Please see exhibits D through L respectively for the entirety of each Appellant's appeal document.

The School District has prepared their own response to the appeals filed (see exhibit M).

### 4. Project Clarifications (Post-City Action)

Commission staff met several times in late August/early September with staff from the City, the School District, and Assemblyman Keeley's office regarding issues raised by the appeals filed. As a follow-up to these discussions, Commission staff prepared a memo dated August 30, 2001 designed to highlight the issues discussed in these meetings, as well as potential means to address the subset of issues discussed that appeared to have the potential to raise substantial issues.<sup>2</sup> The City and School District response was that the City's approval, while not explicit to several of the issues, encompassed provisions and

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<sup>2</sup> See exhibit T for August 30, 2001 memo from Coastal Commission Deputy Director Tami Grove to John Doughty, Planning Director for the City, John Casey, superintendent for PVUSD, and Fred Keeley, Assemblyman for the 27<sup>th</sup> District.



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mechanisms to address the issues. The measures suggested by Commission staff were designed to ensure that the City's approval achieves LCP conformance in number of areas including: identifying ownerships and resulting parcels within Area C; assuring legal protection of the remainder of Area C outside of the high school development area; restoring the ESHA and ESHA buffers associated with West Branch of Struve Slough and Hanson Slough; containing public service extensions, both physically and legally, so that they are only used to serve the high school; assuring legal and physical protection of all required agricultural and ESHA buffer and easement areas; assuring adequate water quality BMPs are implemented; minimizing landform alteration and protecting the public viewshed; confirming the safety of the site in light of adjacent Watsonville airport operations; protecting the water source for adjacent farmers; and ensuring adequate geotechnical measures are taken to ensure long-term structural stability.

Commission staff made clear that the August 30, 2001 memo was provided as a service to follow-up on the series of meetings, and was not intended to substitute for a staff report recommendation to the Commission, such as is provided here. It was also not meant to be a comprehensive analysis of appeal allegations, but rather a review of the subset of issues discussed in the series of meetings. Furthermore, the memo in no way purported to – nor is there any mechanism that could – bind the Commission in terms of their deliberations on the question of substantial issue. In any case, as observed in the memo, Commission staff believe that the most appropriate and expeditious manner in which to address the various issues raised was and is through an amendment to the City's June 26, 2001 action; in other words, the formal public hearing process described by the LCP for making changes to approved coastal permit projects. Such a formal process allows the public to provide input and ensures enforceability of any changes so made.

In response to the August 30, 2001 memo, the School District provided a package dated September 13, 2001 including a series of "clarifications" that they understood to be a part of the City's original approval, findings, and conditions; the clarifications meant to address memo-identified issues.<sup>3</sup> The City subsequently agreed in a letter dated September 17, 2001 that the District's clarifications memo made project adjustments within bounds of the project approved by the City, and that the adjustments were thus consistent with the City's approval.<sup>4</sup> Commission legal staff indicates that the District's "clarification" memo, and the City's acceptance of it, carries some risk, but is arguably equivalent in enforceability as a permit amendment would be.

Unfortunately, some aspects of the District's September 13, 2001 "clarification" memo were open to substantial interpretation or lacked necessary clarity. One of the root causes of this confusion is the convoluted property acquisitions that are ongoing; including an unresolved eminent domain proceeding and a related acquisition process involving the State Coastal Conservancy. Other reasons are that the District had not previously provided adequate specificity to address identified concerns, particularly as they relate to preservation of the remainder of Area C outside of the school development site and the LCP-

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<sup>3</sup> See exhibit N for the District's September 13, 2001 letter to John Doughty, Planning Director for the City. The PVUSD School Board, by a 5-2 vote, authorized PVUSD's Superintendent to make modifications to the project and the September 13, 2001 letter at his discretion.

<sup>4</sup> See exhibit P for September 17, 2001 letter from City of Watsonville City Manager Carlos Palacios to Coastal Commission Deputy Director Tami Grove. Note that the Watsonville City Council authorized the City Manager accept the letter from the District and to take whatever steps necessary to implement the City Council decision on the high school.



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required restrictions on urban services. Geotechnical, water quality, aeronautics safety, and design issues were also raised for the same reasons. Commission staff, again in an attempt to facilitate the process in light of the expressed funding and timing concerns, provided the City and District a follow-up memo identifying areas in need of further clarification and better specificity.<sup>5</sup>

Following a meeting between staff of the Commission, the City, the District, and Assemblyman Keeley's office to discuss the follow-up September 25, 2001 memo, the District and City agreed to the measures described therein. These additional clarification were folded into the project by virtue of the District's September 26, 2001 letter to that effect, and the City's September 27, 2001 acceptance of it. The primary resolution suggested that the Commission, through the Executive Director, would have the opportunity to review and approve key elements of the revised project; particularly in relation to the preservation and restoration of the remainder of Area C and the ESHA areas there.<sup>6</sup> The City also commits to a conflict resolution process that would elevate to the Commission, as necessary, any unresolved condition compliance disputes between the City, District and Commission Executive Director.<sup>7</sup> It is to the clarified project that this staff report is directed.

Thus, the project, as it is now clarified, differs from that submitted to the City for approval. It has been reduced in scale through reduced grading and removal of buildings, and it has been made clear that all the physical and legal protections required for Area C ESHA, ESHA buffers, agricultural lands, agricultural buffer lands, and water and sewer utilities will be put in place. Geotechnical and water quality concerns are now clearly being addressed. The safety of the site in terms of its location relative to Watsonville Airport operations will be re-verified by the airport safety experts from Caltrans Aeronautics Division. These clarifications are found in the District's September 13, 2001 letter as modified by their September 26, 2001 letter incorporating additional clarifications. That said, because the City and District chose a non-public hearing process with which to modify the City's approval through "clarifications," the Commission's hearing will be the first time that the public has the opportunity to comment on the record as to the effect of the proposed clarifications; particularly the effect in light of the appeal issues raised.

## 5. Staff Recommendation on Substantial Issue

The staff recommends that the Commission determine that **no substantial issue** exists with respect to the grounds on which the appeal was filed. A finding of substantial issue would bring the project under the jurisdiction of the Commission for hearing and action.

***Motion.** I move that the Commission determine that Appeal Number A-3-WAT-01-070 raises **no***

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<sup>5</sup> See exhibit U for September 25, 2001 memo from Coastal Commission Deputy Director Tami Grove to John Doughty, Planning Director for the City, John Casey, superintendent for PVUSD, and Fred Keeley, Assemblyman for the 27th District.

<sup>6</sup> Again, see exhibits N and O for the District's clarifications, exhibits P and Q for the City's response, and exhibits T and U for Commission staff memos to the District on LCP issues and potential solutions. Note that exhibit O incorporates exhibit U by reference.

<sup>7</sup> See City's September 27, 2001 letter; exhibit Q.



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*substantial issue with respect to the grounds on which the appeal has been filed under §30603 of the Coastal Act.*

***Staff Recommendation of No Substantial Issue.*** Staff recommends a **yes** vote. Passage of this motion will result in a finding of No Substantial Issue and adoption of the following resolution and findings. If the Commission finds No Substantial Issue, the Commission will not hear the application *de novo* and the local action will become final and effective. The motion passes only by an affirmative vote by a majority of the Commissioners present.

***Resolution To Find No Substantial Issue.*** The Commission hereby finds that Appeal Number A-3- WAT-01-070 does not present a substantial issue with respect to the grounds on which the appeal has been filed under §30603 of the Coastal Act regarding consistency with the Certified Local Coastal Program.

## Recommended Findings and Declarations

The Commission finds and declares as follows:

### 6. Project Description

#### A. Project Location

##### 1. Watsonville Coastal Zone Location

The Watsonville coastal zone is located in the rolling hills just outside of the lower Pajaro Valley in south Santa Cruz County. The Pajaro Valley is in the agricultural center of Santa Cruz County. Favorable climate, combined with some of the most fertile soils in the State, make this an extremely productive agricultural region. Agriculture is the principle base of the local economy, although tourism (and particularly eco-tourism) are making inroads in this area. Agricultural lands extend the three miles west of the City of Watsonville to the Monterey Bay with only a few enclaves of other development (e.g., Pajaro Dunes and Sunset Beach, which are non-contiguous oceanfront second home developments) representing the only non-agricultural urban land uses west of the City of Watsonville. See exhibit A.

Only a small portion (less than 10%) of the City of Watsonville lies within the coastal zone. This area constitutes approximately 300 acres. Generally, the coastal zone boundary follows State Highway One as it runs through Watsonville and South Santa Cruz County. However, about 75 acres of the City of Watsonville west of Highway One were deleted from the Coastal Zone by the legislature in 1979. This excluded area west of the Highway and out of the coastal zone has since been heavily developed with urban structures and uses, and it provides a marked contrast to the surrounding coastal zone lands that are essentially undeveloped farmlands and sensitive habitat areas. See exhibit A for location maps.

For purposes of LCP planning, the City has divided their coastal zone into six areas (described as coastal



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areas A, B, C, D, E, and R). Coastal Areas A, B, and C are located directly west of Highway One, Coastal Area R is the Highway One and local road right-of-ways, and Coastal Areas D and E represent two non-contiguous public facility developments west of the City (i.e., “islands” within the City limits but separated geographically from the City). Coastal Area D is currently developed with the City’s wastewater treatment facility on the Pajaro River, while Coastal Area E serves as the City’s landfill. Again, see exhibit A for location maps.

### 2. City Coastal Zone Area C

The proposed project is located within the City of Watsonville coastal zone within Coastal Zone Area C. Area C is located to the north of Harkins Slough Road at its intersection with Lee Road, west of Highway 1 on the western outskirts of the City of Watsonville. Area C is composed of seven parcels totaling approximately 139 acres (assessor parcel numbers 018-281-02, 08, 12, 14, 15, 18, and 19); this area represents the largest contiguous block of land within the City’s coastal zone. Of the seven parcels that make up Area C, six are owned by Mr. Ralph Edwards, and one (the closest to the Highway) is owned by the City.<sup>8</sup>

Area C is situated within a larger geographic region of extremely low intensity development without public services (water and sewer)<sup>9</sup> and dominated by agricultural uses.<sup>10</sup> This region extends from the western border of the City at Highway 1 all the way to the Pacific Ocean. Areas to the west and south (immediately outside the City’s boundaries surrounding Area C) in unincorporated Santa Cruz County are designated by the County as Commercial Agriculture and Open Space (Watsonville Slough Ecological Reserve). Land use designations for the areas remaining within the City’s jurisdiction to the north and east are designated as Environmental Management and Public. Across Highway 1 inland to the north and east are areas zoned for Industrial, Environmental Management, Residential-Low Density, Public, Residential-Medium Density, and General Commercial. As of 1997, Area C was a part of a larger single strawberry farming operation extending west outside of City limits.<sup>11</sup>

### Agricultural Use of Area C

Watsonville’s coastal zone is part of an area where agriculture is paramount to the economy. According to the *Pajaro Valley Futures Study, November 1998*, “unlike other cities in Santa Cruz County, Watsonville’s economy is almost entirely dependent on agriculture.” This study provides valuable information both in the form of statistical analysis of trends in crop acreage and values over the past 20 years; and also qualitative assessments based on interviews with people who work in the industry everyday – growers, processors, labor, service industries, real estate, etc. The following is a summary of

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<sup>8</sup> See exhibit A for the Area C parcel map. Note that PVUSD is currently in eminent domain to acquire 4 of Mr. Edwards parcels, and a portion of a fifth, to create a parcel of roughly 70 acres. This litigation remains unresolved as of the date of this staff report.

<sup>9</sup> See exhibit A for a graphic showing public services in the vicinity.

<sup>10</sup> See exhibit A for a graphic showing the range of agricultural lands in the area stretching to the Monterey Bay to the west of the City.

<sup>11</sup> South Santa Cruz County Ranch Maps, Santa Cruz County Agricultural Commissioner’s Office (1997).



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the study's findings:

*The ideal growing conditions in the Pajaro Valley create high demand for the finite amount of agricultural land and land values that are considerably higher than in nearby areas. While urbanization may escalate land values to 8 to 10 times the value for agriculture, the high agricultural land values indicate the importance of the Pajaro Valley as agricultural land. Over the past twenty years agricultural production in the Pajaro Valley have increasingly shifted to higher income commodities such as strawberries, while apple production has declined. This is likely to continue as outside competition and high costs of land, water, and labor make lower income crops less economical.*

Area C has been in agricultural use for many years. The LCP defines the agricultural lands here as prime agricultural lands within the meaning of the Coastal Act. Historic agricultural use in the Pajaro Valley dates back to pre-European times. The subject site was originally part of James Hanson's dairy in the 1800's and appears to have stayed in grazing use until recently, as documented by historic aerial photographic analysis. Also, at times the grasses were mowed and likely used for feed, as evidenced by hay bales on the site in a 1931 aerial photograph. The background report to the LUP written in 1982 says the site at that time was partially in grazing use and partially in row crops.<sup>12</sup> Current agricultural use of the subject parcel has been strawberry cultivation, a use that has been occurring for the last decade.

Area C is situated in an agricultural area indistinguishable from surrounding and adjacent strawberry farms. According to the South Santa Cruz County Ranch Maps of 1997, other agricultural properties within the vicinity and region of the subject site have been used for pasture, strawberries, and vegetables.<sup>13</sup> This document reveals that use across Harkins Slough Road to the southwest has more recently been for vegetable crops and a small amount of grazing. Until recently there was also an apple orchard located to the southwest as well. However, the trees have since been removed. Use of the lands adjacent to proposal site to the west and northwest has also more recently been for grazing and strawberry cultivation.

### Watsonville Slough System on Area C

Area C also encompasses large tracts of wetland resources, including portions of Hanson Slough and West Branch Struve Slough. Hanson and West Branch Struve Slough are two of the six major branches of the Watsonville Slough System (see exhibit A). The Watsonville Slough System drains an approximately 13,000 acre coastal watershed in south Santa Cruz County. This slough system, which winds in and out of the City of Watsonville and ultimately to the Pajaro River Lagoon/Estuary and on to the Monterey Bay, is probably the largest and most significant wetland habitat between Pescadero Marsh (in San Mateo County) to the north and Elkhorn Slough (in Monterey County) to the south. The entire Watsonville Slough System has been designated by the California Department of Fish and Game (CDFG) as an "Area of Special Biological Importance."

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<sup>12</sup> California Department of Water Resources Maps show the part of the site closest to Harkins Slough Road in row crops in 1975 and the entire farmable portion of the site in row crops in 1982.

<sup>13</sup> Santa Cruz County Agricultural Commission, *South Santa Cruz County Ranch Maps 1997*.



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The Watsonville Slough System extends from areas well inland of Highway One all the way to the Monterey Bay.<sup>14</sup> The Slough System includes approximately 800 acres of (flat) wetland area.<sup>15</sup> Although difficult to estimate with any degree of accuracy, this Slough System has been reduced in scale over time. Farming in and around the sloughs has been ongoing since the 1850s, and much of the sloughs have been channelized, graded, and used for agricultural production or grazing at one time or another. Encroaching urbanization in and around the City of Watsonville has also led to direct encroachment into slough areas over time. Best estimates are that the Watsonville Slough System once included over 1,000 acres of wetland slough habitat.<sup>16</sup> It is likely that the Slough System was once even larger given that these estimates are based on sparse historical data going back approximately 120 years.

Despite its historical reduction, the Watsonville Slough System remains a very important ecological system. It contains significant areas of fresh and salt water wetland, marsh, and open water areas, riparian and oak woodlands, as well as dune and coastal scrub communities nearer the coast. The diversity of habitat and its coastal location along the Pacific Coast Flyway combine to make the Slough System an important resting, feeding and refuge area for migratory, seasonal and resident waterfowl. In addition, the Slough System is home to many other birds, amphibians, reptiles, and other animals – some of these species protected by the Federal and State Endangered Species Acts – which likewise use this diverse habitat. The rich prey base supports a high diversity of raptor and other predators. Various plant species of concern, some of these endangered as well, are also prevalent in the Slough System. United States Fish and Wildlife Service (USFWS) and the California Department of Fish and Game (CDFG) both submitted comments on the LCP amendment that allowed the school use at this location indicating that the Watsonville Slough system as a whole, as well as the portions of it that are found on Area C, is biologically sensitive habitat particularly worthy of vigilant protection. CDFG indicating at the time that all of Area C should be considered ESHA within the meaning of the Coastal Act and USFWS recommending “taking the broadest view possible in interpreting the extent of ESHA resources on the site.”<sup>17</sup>

The six major branches making up the Watsonville Slough System are Watsonville Slough, Harkins Slough, Hanson Slough, Struve Slough, West Branch of Struve Slough (also known as West Branch Slough), and Gallighan Slough. These generally shallow, broad wetland channels transport and drain irrigation and precipitation runoff from the greater Watsonville urban and agricultural area (including Freedom, Larkin Valley, and other portions of the Pajaro Valley in unincorporated southern Santa Cruz County). During winter storm events, these slough branches often flood into broader floodplain areas, thus providing important flood protection function for adjacent lands. Such flooding often closes stretches of roads for months at a time (including Harkins Slough Road west of Area C, and the Lee Road access from

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<sup>14</sup> Again, see exhibit A.

<sup>15</sup> As estimated in *Water Resources Management Plan for Watsonville Slough System Santa Cruz County* (AMBAG, November 1995).

<sup>16</sup> *Restoring Converted Wetlands: A Case Study In Watsonville, California A Thesis Presented to The Faculty of the Department of Environmental Studies San José State University in Partial Fulfillment of the Requirements for the Degree Master of Science* by Karl Schwing, 1999, examined land survey maps from 1881 and 1908 and calculated 1,026 and 1,187 wetland acres, respectively, in the Watsonville Slough system. It should be noted that these maps did not contain wetland delineations, rather they generally depicted sloughs and marshes. Examination of aerial photographs found 500 acres of wetland in 1985 and 652 acres in 1994.

<sup>17</sup> CDFG February 15, 2000 letter and USFWS March 32, 2000 letter; both on City LCP Amendment 1-99.



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the site to the south).

While the biological productivity of the Watsonville Slough System has long been widely recognized, ongoing sedimentation, and the introduction of agricultural and urban polluted runoff constituents, have combined to degrade water quality in the system over time. Such water quality issues can be exacerbated by the generally low surface flow gradient (from inland portions of the system to the Monterey Bay) as well as the constricted outflow of the system to the Pajaro River Lagoon/Estuary (where a pump station at Shell Road manages downstream flows into the tidal estuary). At least partially because of its significance, and because of the ongoing threats to its biological productivity, AMBAG completed a Water Resources Management Plan in 1995 funded by the Regional Water Quality Control Board.<sup>18</sup> One of the recommendations emanating from that study was the need for a comprehensive Watsonville Slough System Master Plan to identify appropriate resource protective management policies and buffer standards, as well as restoration and acquisition priorities, outside the scope of AMBAG's management plan. Subsequently, the Coastal Conservancy has funded development of such a plan for the Watsonville Slough System. Unfortunately the plan has not yet been completed.

### 3. Proposed Project Site

The proposed high school would be developed on the portion of Area C nearest to Harkins Slough Road on sloping agricultural lands between Hanson Slough (to the west) and West Branch Struve Slough to the east. The area involved includes the area of land subject to ongoing eminent domain litigation, roughly 70 acres that encompasses the four southern parcels in Area C and a portion of the largest parcel. This area is bounded on the north by the lands under agricultural cultivation, on the east by the west branch of Struve Slough and then Highway 1, on the south by the Watsonville Slough Ecological Reserve, and on the west by Hanson Slough along with lands under agricultural cultivation. There is a noticeable slope break running north and south which contains a dirt road that separates the habitat area and grassy slopes above it, from the remainder of the property. The site has two small sheds, a well, a water storage tank and a fuel storage tank.

The applicable site boundaries themselves remain undefined as the District is involved in a complicated land deal that involves the District's eminent domain proceedings on roughly 70 acres of Area C and the Coastal Conservancy's potential acquisition of the remainder of Area C exclusive of the City parcel. Following both acquisitions, some type of land swap would apparently take place whereby the Conservancy (or its grantee) would acquire the ESHA and ESHA buffer areas on the high school eminent domain property and the District would acquire a roughly 10 acres piece of land due north of the high school facilities currently proposed. The District has attempted to clarify the resultant parcelization.<sup>19</sup> All parcels and ownerships will be defined prior to the high school CDP being exercised, according to the parameters of the clarified project.

In any case, for the purposes of this report, "the high school site" refers to the area within which high school facilities were approved by the City; an area roughly 30 acres in size (see exhibit S).

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<sup>18</sup> *Water Resources Management Plan for Watsonville Slough System Santa Cruz County* (AMBAG, November 1995).

<sup>19</sup> See exhibits N and O for the September 13, 2001 and September 26, 2001 District clarification memos to the City.



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### B. City-Approved Project<sup>20</sup>

The clarified project approved by the City involves roughly 500,000 cubic yards of site grading that would transform the high school site into a series of three generally flattened tiers: one tier stepped up roughly 10 feet above and nearest Harkins Slough Road for playfields, a second tier stepped up approximately 15 feet from the first tier supporting most buildings, and a third tier stepped up approximately 15 feet from the second tier at the plateau of Area C for parking lots, ball courts, and related structures. Within each tier would be some sub-tiering to more closely mimic natural contours at the site. The plateaus would be perched atop generally flattened slopes that show some additional contouring and natural undulations in the District's clarification.

The high school would include roughly 200,000 gross square feet of interior space in a series of one and two-story permanent structures and 20 one-story portable classrooms. There would be two baseball fields, a soccer field, several basketball and tennis courts, and a parking area for 435 vehicles. The project includes a driveway that would extend along the easternmost portion of the high school site (nearest West Branch Struve Slough and Highway One) to the northernmost parking areas. An internal emergency access loop would be provided. See clarified project site plan in exhibit S.

The site would be served by City water and sewer service by means of a 12" water line and a 8" gravity to a 6" force main sewer line.<sup>21</sup> Site runoff would be collected and filtered through engineered filtration units and a cascading detention pond system prior to outletting of filtered runoff to adjacent habitat areas.

Buffering landscaping surrounding the site was approved by the City. The District indicates that it is in the process of revising the restoration and landscaping plan consistent with all LCP requirements.

All lands on Area C outside of the high school site and a roughly 10 acre contiguous parcel northward<sup>22</sup> would be permanently protected for agriculture and open space, and ESHA and ESHA buffer as directed by the LCP. This would be accomplished through property restrictions and property acquisition by appropriate land conservation entities. All required LCP ESHA and ESHA buffer enhancements and restoration would take place, and the District has committed to long-term funding and implementation of same.<sup>23</sup>

See the following exhibits that together define the City-approved project (hereafter "City-approved clarified project" or "clarified project"):

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<sup>20</sup> As detailed earlier, the District has clarified it's project, and the City has agreed to the clarifications. These clarifications are found in the District's September 13 , 2001 letter as modified by their September 26, 2001 letter incorporating additional clarifications, and by the City's acceptance of these clarifications as enforceable elements of the City's approval. It is this clarified project that is the subject of this staff report analysis.

<sup>21</sup> Note that Since Harkins Slough Road is located within the coastal permitting jurisdiction of Santa Cruz County, the City's approval of such utility extensions is necessarily limited to that area north of the Harkins Slough Road right-of-way. A separate CDP will be necessary for the remainder of the utility extension project located in Santa Cruz County.

<sup>22</sup> The 10-acre parcel acting as a "reserve" for future high school uses that would be subject to future CDP application processes if pursued.

<sup>23</sup> Long-term implementation may fall to third-parties who have accepted legally enforceable responsibility for the long-term sustainability of the ESHA and ESHA buffer areas. In any case, such responsibility would not be transferred from the District absent sufficient long and short term funds with which to ensure success of the ESHA and ESHA buffer enhancements.



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- City staff report, findings, and conditions – exhibit B.
- School District clarifications to project since the City’s approval – exhibits N and O.
- City’s acceptance of the District’s clarifications – exhibits P and Q.
- School District clarified site plan – exhibit S.

In addition, Commission staff memos on project issues and potential solutions provide background and context for the City-approved clarified project. See exhibits T and U.

## 7. Substantial Issue Findings

The Appellant’s contentions fall generally into 5 overlapping issue areas (as described in more detail earlier) related to: protecting and preserving public health and safety; protecting and preserving the public viewshed; upholding the urban-rural boundary at Highway One; protecting and preserving ESHA and agricultural lands and their buffers; and the contention that alternative sites are available that, if used for the high school as opposed to this one, would have a lesser impact on coastal resources and the environment.<sup>24</sup> Each of these is discussed in detail in the findings that follow. As summarized below, although these contentions raise valid LCP issues, issues that were potentially even substantial absent the clarifications made to the project since the City Council’s approval, the City-approved clarified project is substantially consistent with LCP policies and these issues do not rise to the level of a substantial issue in terms of the project’s conformance with the certified LCP.

### A. Applicable LCP Policies

The City’s certified LCP, both the Land Use Plan (LUP) and the Implementation Plan (IP or zoning) is structured with policies that generally apply throughout the City’s coastal zone, as well as specific policies that apply to individual coastal zone areas (e.g., in this case, Area C). There are also a subset of Area C-specific policies that apply only to the development of a High School at this site. Due to the structure of the LCP, and due to the range of issues engendered in the appeals submitted, all applicable LCP policies are provided in exhibit Y. These are arranged in order by first LUP policies that generally apply to Area C as well as all coastal zone areas, then by LUP policies that specifically apply within Area C, then by IP policies that specifically apply to Area C, and finally by IP policies that are referenced by specific Area C policies and/or that apply more generally to all City coastal zone areas. As necessary, these policies are referenced and summarized in the findings that follow. For the exact text of the policies, please refer to exhibit Y.

In any case, the City’s certified LCP clearly reinforces core Coastal Act issues including protecting against the conversion of agricultural land to urban uses; establishment of a strong rural-urban boundary;

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<sup>24</sup> See exhibits D through L for the Appellants’ complete appeal documents.



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preservation of agricultural land; appropriate water/sewer utility service areas; preservation of the public viewshed; and the protection (and acquisition) of sensitive resource areas.

### B. Public Health and Safety

Appellants generally contend that the subject site is unsafe for students and educators due to: its proximity to the Watsonville Airport flight path; unmitigated geotechnical problems; pesticide application on adjacent agricultural fields; potential for contact with pesticide residues resident in the proposed school development envelope that has historically been farmed; proximity to solid waste landfills; potential for contact with on-site and adjacent sloughs that have accumulated a variety of agricultural and urban toxins; potential for flooding dangers both on-site and off-site (the off-site flooding issue that the ability to access the site at all during such an event would be compromised); and the potential for contact with organisms and other related gas and matter emanating from the adjacent cattle feedlot (see exhibits D through L) for complete appeal documents).

These contentions primarily involve several inter-related LUP policies in LUP Sections II and III.C, and IP Sections in IP Section 9-5.705(c) et seq (see exhibit Y).

The other safety allegations are not LCP issues per se. The District has chosen this site in consultation with the State Department of Education. It is through that process that questions regarding the site's known proximity to the landfills, toxic substances discovered on-site, and gases and other toxic substances potentially in the air, land, and/or surrounding waters are addressed. While these issues are obviously of paramount concern for assuring the site is safe for students and educators, there are not corresponding LCP policies and the Commission must respectfully defer these questions to the experts in the field charged with making these determinations (namely the School District and the State Department of Education).

#### 1. Consistency with Applicable LCP Policies

##### Geotechnical

The LCP requires that all geotechnical issues be addressed and provides a series of required tests and analyses to ensure development's long term stability. These requirements are particularly relevant with the project because of the site's soil characteristics and the amount of grading and created slopes associated with the clarified project. The chosen site raises concern related to slope stability, including landslide hazards associated with natural slopes, those associated with grading (cut or filled slopes), and with seismically-triggered instability. Although natural slopes within the site are for the most part relatively gentle, considering the clayey soil and the discontinuities in geologic materials encountered during borings, natural slope failures are a possibility in the steeper portions of the site. Cut and fill slopes steeper than natural slopes will be at greater risks. During an earthquake, seismically-triggered slope failures are also a possibility. While the flatter northern portions of the site will be at least risk, the magnitude of these risks cannot be assessed without a quantitative slope failure analysis. Such an analysis must be based on geotechnical parameters measured from samples obtained at the site, for both static loads and loads imposed during seismic shaking corresponding to the maximum credible earthquake for the site.



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The clarified project will ensure that all LCP-required geotechnical analysis are completed prior to exercising the CDP. In addition to the geotechnical analysis and reporting that has taken place to date, the District has committed to providing at least one slope stability analysis for each slope based on the final proposed configuration of the site as shown on the final grading plans. The final grading plans are then to be submitted with a signed stamp from the consulting geotechnical engineer and/or geologist indicating that the development is safe from a geotechnical perspective in terms of issues including, but not limited to, overall stability of the slopes created, seismically induced settlement, liquefaction, and lateral spreading.<sup>25</sup>

### Flooding

There is little evidence that the site itself would be subject to flooding. There is an appeal claim that the water quality detention pond system may flood, but the City-approved plans show that this system has been engineered per State Storm Water Best Management Practice Handbook specifications and appropriately sized. Other than potential hydromodification/flooding issues due to the final graded slope (an issue addressed through the required geotechnical analysis described above), the Commission is unaware of any other potential flooding issue on the high school site.

There is clear evidence that access *to the* site is subject to flooding since Harkins Slough Road just west of Highway One is within the 100-year flood zone where the Road crosses the West Branch of Struve Slough. However, the District has committed to a bridge over the slough at this location; such a bridge would mitigate the flooding issue in terms of access to the site.<sup>26</sup>

### Agricultural Buffer

The high school site will be located adjacent to ongoing agricultural operations to the north, west, and south. This includes grazing land west of the site on the adjacent Rocha property in Santa Cruz County, organic farming south of the site across Harkins Slough Road, and cultivated fields extending north and west within both the City and adjacent lands in the County. There are typical incompatibility issues at urban-agricultural land use interface (including, among others, noise, dust, odors, and pesticide application). Particularly relevant to this appeal allegation is that of pesticide application on adjacent fields, particularly since the high school involves a substantial number of youths and adults on the site, including outdoor use. In recent years, concerns have been raised by District parents concerning PVUSD schools (e.g., Ohlone and Amesti) adjacent to agricultural fields. Current requirements for users of “restricted materials” are such that they must obtain both special training and a site-specific permit from their county agricultural commissioner. One such “restricted material” that may be used on adjacent strawberry fields is Methyl Bromide, which is scheduled to be phased out of use by 2005. Methyl Bromide is a fumigant commonly used in strawberry cultivation operations. Before the Agricultural Commissioner can issue a permit they must first take into account the presence of sensitive sites in the area. Sensitive sites typically include schools, hospitals, and residential neighborhoods. Faced with this,

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<sup>25</sup> Note that according to the School District, the Division of the State Architect bases their geotechnical safety sign-off on such an assurance from the licensed consulting geotechnical engineers and geologists hired by the District.

<sup>26</sup> Note that there is an appeal allegation regarding the appropriateness of Harkins Slough Road to access the site versus the alternative of using West Airport Boulevard. That issue is discussed more fully in the urban-rural boundary findings that follow.



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an Agricultural Commissioner may deny the permit, or may require specific use practices designed to protect health and the environment.

The LCP does not include specific pesticide safety requirements per se. Such measures to ensure public health and safety in this case fall more specifically to the School District and Department of Education in choosing school sites, and to the School District and the County Agricultural Commissioner in regulating pesticide application near schools. The LCP more generally addresses this issue by virtue of its 200 foot agricultural buffer requirement, within which, for Area C, limited public school uses are allowed. The clarified project will be consistent with each of the LCP's agricultural buffer requirements.<sup>27</sup>

### Airport Safety

While airport safety is not generally within the purview of the Commission (other hazard issues are discussed in the Coastal Act), in this case the LCP includes specific airport safety requirements. These LCP requirements require the State Department of Education, through the Caltrans Aeronautics Division, to ensure the chosen site is "safe for public school development with respect to potential airport safety concerns."<sup>28</sup> The evaluation from Caltrans and the Department of Education regarding the proposed high school did not object to a school on a defined portion of Area C, indicating that their evaluation did not reveal any "undue hazard."<sup>29</sup>

Since that time, and as alleged by several Appellants, Commission cartographic staff indicate that a portion of the school site and facilities are located within the inner-turning zone of the Watsonville Airport, an area within which the Caltrans Aeronautics Division historically does not allow school siting. Because the safety of students and educators is of paramount importance, the District's clarified project provides for a full and complete consultation with experts in the Caltrans Division of Aeronautics in light of all the submitted information on: the site, planned school facilities on the site, typical airport operations (e.g., Watsonville Airport's primary role as a amateur pilot flight instruction airport), and the site's location relative to typical Watsonville Airport operations. The District has committed to a professional survey to map all aeronautics indicators for safety in relation to the school and the airport, superimposing the specified aeronautics setback surveys over the facilities plan for the school, and submitting this graphic to the Caltrans Aeronautics Division for their final review. The Caltrans Aeronautics Division will then be requested to confirm that the final area in which school facilities are planned is safe for public school development with respect to potential airport safety concerns as required by the LCP.<sup>30</sup>

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<sup>27</sup> Note that the City has applied for an LCP amendment to allow for a similar list of restricted school uses in the agricultural buffer along the northern boundary of the school site as are allowed along the perimeter as dictated by the LCP. That LCP amendment is tentatively scheduled for the Commission's November hearing in Los Angeles. The clarified project provides a mechanism to ensure that the 200 foot buffer will be maintained regardless of the outcome of the LCP amendment. See District clarification memo dated September 13, 2001 (exhibit N).

<sup>28</sup> See LUP Policy III.C.5.a(4) and IP Section 9-5.705(c)(5)(i)(ad) in exhibit Y.

<sup>29</sup> See exhibit C for State Department of Education letter dated August 11, 2000 and attached to it the Caltrans Aeronautics Division letter dated August 14, 2000.

<sup>30</sup> See District September 26, 2001 clarification letter (exhibit O).



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### 2. Public Health and Safety Conclusion

The LCP has specific policies for geotechnical analysis and long term stability, flooding, agricultural buffers, and airport safety to help protect public health and safety. The LCP does not, however, have policies specific to other types of public health and safety dangers that may be posed at the subject site. These dangers, and their mitigation, are addressed through site selection and mitigation by the District in consultation with the State Department of Education, and the Commission must respectfully defer these non-LCP questions to the experts in the field charged with making these determinations (namely the School District and the State Department of Education).

In terms of LCP policies, the Appellants raise valid public health and safety issues, however the City-approved clarified project is substantially consistent with these LCP policies and these issues do not rise to the level of a substantial issue in terms of the project's conformance with the certified LCP's public health and safety policies as cited in this finding.

### C. Public Viewshed

#### Visual Resource Setting

By almost any standard, the rural agricultural rolling hills of south Santa Cruz County and the Watsonville coastal zone must be regarded as a scenic coastal resource of great public importance. Vast wetlands of the Watsonville Slough System interspersed with large farms on varied terrain provide a welcome respite from the urban corridors of Santa Cruz, Capitola, and Aptos to the north. As one travels downcoast from Santa Cruz towards Watsonville along Highway One, sparsely developed coastal foothills predominate. Downcoast of the City along Highway One (past the Pajaro River and into Monterey County), the lush farmlands of the Pajaro Valley lap both sides of the Highway extending in all directions. In fact, the City itself, situated almost entirely east of Highway One north of the Pajaro River, is an urban island in an otherwise rural and agricultural sea. Highway One in south Santa Cruz County has been designated by the City (General Plan) and County (LCP) as a scenic road, and is eligible for such designation by the State Scenic Highway Program.

The coastal zone areas of the City west of Highway One (Areas A, B, and C) are likewise largely undeveloped, characterized primarily by rolling agricultural lands and the vast wetlands of the Watsonville Slough System. By contrast, the non-coastal zone areas in the City have been undergoing significant urbanization. This includes both the inland side of Highway One as well as the small portion of the City west of the Highway that was removed from the coastal zone by the State Legislature in 1979. In fact, the contrast in land use and development for the portion of the City west of the Highway outside of the coastal zone when compared to the surrounding (and agricultural) area inside of the coastal zone is particularly evident. Although several areas outside of the City (and outside of the coastal zone) remain in agricultural use east of the Highway, the City has pursued annexation of these areas (thus far denied by the LAFCO) and development pressure on these inland areas is high.



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Area C is easily the most scenic portion of the City's coastal zone. Framed by the West Branch of Struve Slough adjacent to the Highway, the vast CDFG Ecological Preserve to the south, and the undeveloped agricultural fields of south Santa Cruz County to the west, Area C lies in the middle of an agrarian/wetland landscape. Highway One, Harkins Slough Road, Lee Road, West Airport Boulevard, and the Highway 152 off-ramp all provide public vantage points from which to enjoy this setting. In fact, this entire sweep of unspoiled landscape can be viewed by the public in a continuously unfolding panorama along Highway One for travelers in both directions. The views from the small local roads on the west of the Highway allow the public to venture within this lush landscape; Harkins Slough Road is a prime example. As appropriately stated in the City's General Plan:

*More than any other route in the city or planning area, Harkins Slough Road provides a close-up view of the unique beauty of the area's sloughs and marshes.*

In fact, Highway 1, Harkins Slough Road, and the Highway 152 off-ramp are all designated as scenic roads by the City; Highway 1 and the Highway 152 off-ramp are also so designated by the State.

*The site, and the undeveloped lands west of Highway One, provide both a visual and land use transition from the urbanized areas of the City east of the Highway, and the vast rural landscape extending west to the ocean.*

### Appellants Contentions

Appellants generally contend that the proposed development would unduly mar the rural agrarian landscape and viewshed west of Highway One with substantial grading and intensive urban development (see exhibits D through L for complete appeal documents).

### Applicable LCP Policies

These contentions primarily involve several inter-related LCP policies, including the following (emphasis added):

***All development shall be designed and sited so as to be subordinate to preservation of the rural agricultural and wetland character of the surrounding rolling hill landscape.***

*Where feasible, new structures shall be hidden from Highway 1; otherwise such development shall be screened through planting and permanent upkeep of appropriate tree species (such as native live oak which will provide, upon maturity, complete vegetative screening on a year-round basis).*

***Minimize alterations of the natural landform through avoidance of grading visible from Highway One and/or other coastal zone roads. Where grading visible from Highway One and/or other coastal zone roads cannot be avoided, such grading shall blend the contours of the finished surface with the adjacent natural terrain and landscape to achieve a smooth transition and natural appearance. No retaining walls around the perimeter of the school site shall be allowed, however, any interior retaining walls that may protrude above the level of***



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*finished grade shall be minimized in height and colored, textured, and landscaped to reduce visual impacts from Highway One and/or other coastal zone roads."* -

***All development visible from Highway One and/or other coastal zone roads shall be sensitively designed and subordinate to preservation of the public viewshed. All development shall be designed to be compatible with the rural agricultural character of the surrounding rolling hill landscape, except that no design changes that would entail a new approval from the State Architect are required. Compatible design shall be achieved through the use of utilitarian design features; roofs pitched above horizontal; low-slung buildings separated by open spaces to break up visual massing; large building facades broken up by varied rooflines, offsets, and building projections that provide shadow patterns; large structures broken down into smaller building elements (rather than long continuous forms); and second story building elements setback from the first story exterior. Large box-like designs, large unbroken roof lines, and/or large flat surfaces lacking architectural treatment shall not be allowed. All exterior finishes shall consist of earthen tone colors that blend with the surrounding landscape (such as board and batten wood siding). All required fencing shall be rustic split rail fencing of rough-hewn and unpainted wood timbers (e.g., cedar) with the exception that rustic wood fencing with no gaps can be utilized if such fencing is required to screen sensitive habitat areas from development."***

Read together, the intent of the LCP policies is to maintain the agrarian viewshed and rural character of the area as much as possible by minimizing landform alteration and the use of sensitive design that conforms as much as possible to the existing topography of the site.<sup>31</sup>

### Consistency with Applicable LCP Policies

There is no question that the City-approved clarified project will introduce a substantial amount of physical development into an area heretofore defined primarily by agricultural open space. The LCP recognizes and attempts to minimize – since it cannot be avoided – this impact through limitations on landform alteration and specific design criteria for development meant to evoke the rural agricultural character of the rolling hill landscape. The project originally approved by the City has been modified by the District (through its series of clarifications) in part to address these LCP policies and concerns. The clarified project includes: lowering of the main building tier, with additional stepping within the tier, so as to soften the overall unnatural visual impact of the school at this site; lowering the elevations of all buildings; removing the most prominent building in the public viewshed from the project, including the retaining walls previously necessary to support the building pad; removing from the project the service turn-around area, including the retaining walls on the largest created slope; and recontouring the slopes supporting the tiers to more closely approximate natural terrain and the underlying site contours. See clarified project site plan attached to the District's September 13, 2001 clarifications memo, or see exhibit S.

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<sup>31</sup> See exhibit R for a site plan graphic of the existing topography.



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### Public Viewshed Conclusion

The LCP protects the agrarian viewshed and rural character of the site and surrounding area. The City-approved clarified project substantially addresses relevant LCP public viewshed policies. In making this finding the Commission notes that the high school will mark a considerable change in the overall aesthetic of this section of coast. Such change should be seen as an anomaly and not indicative of the appropriate direction in terms of mass, scale, design, and overall development aesthetic for agrarian south Santa Cruz County. However, while the Appellants raise valid public viewshed issues, issues that were potentially even substantial absent the clarifications made to the project since the City Council's approval, the City-approved clarified project is now substantially consistent with these LCP policies. Therefore the appeal contentions do not rise to the level of a substantial issue in terms of the project's conformance with the certified LCP's public viewshed policies as cited in this finding.

### D. Urban-Rural Boundary

Appellants generally contend that the proposed development threatens the urban limit line with inadequate protections against potential agricultural conversions, water and sewer utility expansion, inappropriate roadway expansions, and growth inducement west of Highway One (see exhibits D through L for complete appeal documents).

These contentions primarily involve several inter-related LUP policies in LUP Sections II and III.C, and IP Sections in IP Sections 9-5.201, 9-5.705(c) et seq, 9-5.705(g) et seq, and 9-5.706 et seq (see exhibit Y).

#### 1. Consistency with Applicable LCP Policies

##### Water and Sewer Extensions

The LCP allows water and sewer utilities to this site if they are sized to serve the approved use, are surrounded by 1 foot non-access easements to prevent additional connection offsite, are designed to end as stubs to the site being served (and not used for any offsite connections), and there is an MOU in place providing that the City will not pursue annexation west of Highway One. In this case, the City-approved clarified project meets each of these tests.

The LCP also only allows one water and one sewer line to cross Highway One north of Beach Road, as would the utility lines in this case. The intent of the LCP Policy that any development on Area C would share such services with any development on Area B for which such services were approved. There is an exception provision available if certain criteria are met. There are currently no such City services that cross Highway One north of Beach Road; the high school utilities would be the first crossing.

##### Agricultural Conversion

The Commission determined in 2000, and the LCP describes, Area C as containing prime agricultural land. The LCP requires preservation of both prime and non-prime agricultural land. The LCP, however, excludes public schools on Area C from this requirement as follows:



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*[N]on-agricultural use may be permitted only if: (1) continued or renewed agricultural use is demonstrated to be infeasible because it cannot be accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors; or (2) if agricultural use on the site (or the part of the site proposed for non-agricultural use) has ceased, then non-agricultural use may be permitted only if renewed agricultural use is not feasible. An exception to making this finding (in the preceding sentence) may only be made to allow a public school...*

Thus the question of direct agricultural conversion, as is the case for the roughly 30 acres of agricultural land that would be directly converted to school facilities, is moot for a public school.

In terms of the potential for agricultural conversion off-site, the high school site will be located adjacent to ongoing agricultural operations to the north, west, and south. This includes grazing land west of the site on the adjacent Rocha property in Santa Cruz County, organic farming south of the site across Harkins Slough Road, and cultivated fields extending north and west within both the City and adjacent lands in the County. There are typical incompatibility issues at urban-agricultural land use interface (including, among others, noise, dust, odors, and pesticide application). As such, adequate buffers are necessary to ensure that continued agricultural cultivation is not threatened by proximity to non-agricultural uses should standard agricultural practices (such as chemical spraying and fertilizing) or ongoing agricultural by-products (such as dust and noise from machine operations – cultivating, spraying, harvesting, et al) be seen as incompatible and/or a threat to the non-agricultural uses. The LCP requires a 200 foot agricultural buffer, within which, for Area C, limited public school uses are allowed. The City-approved clarified project will be consistent with each of the LCP's agricultural buffer requirements.<sup>32</sup>

### Road Access

The LCP requires access to the high school site from West Airport Boulevard unless it is found that such access is not feasible and that such access is not determined to be the least environmentally damaging alternative.<sup>33</sup> The City-approved clarified project would have access, and resulting road improvements, to the site from Harkins Slough Road. Although feasible, the City concluded, based on the analysis undertaken by the District, that West Airport Boulevard would not be the least environmentally damaging alternative because it would result in additional upland habitat impacts, would result in additional agricultural conversion, and would have a greater potential to inappropriately induce growth west of Highway One.<sup>34</sup> The City concluded that using Harkins Slough Road to access the school site via a new bridge over the West Branch of Struve Slough to replace the current "fill" of the slough represented by Harkins Slough Road itself at this location, was the environmentally superior means of access. The City-approved clarified project thus meets this LCP requirement.

<sup>32</sup> Note that the City has applied for an LCP amendment to allow for a similar list of restricted school uses in the agricultural buffer along the northern boundary of the school site as are allowed along the perimeter as dictated by the LCP. That LCP amendment is before the Commission at the October hearing as well (item W18d). The clarified project provides a mechanism to ensure that the 200 foot buffer will be maintained regardless of the outcome of the LCP amendment. See District clarification memo dated September 13, 2001 (exhibit N).

<sup>33</sup> See LUP Policy III.C.3.o and IP Section 9-5.705(c)(4)(xii) in exhibit Y.

<sup>34</sup> Based on: *Pajaro Valley Unified School District New Millennium High School Site Access Feasibility Study* by Thomas Reid Associates (December 2000).



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### Urban-Rural Boundary and Overall Growth Inducement

The Commission has consistently recognized Highway One as the urban-rural boundary within Watsonville's coastal zone; urban on the inland side and rural on the ocean side. The LCP states that Highway One "serves that purpose [of an urban rural boundary] now, with the exception of the industrial area at the crossing of Beach and Lee Roads."<sup>35</sup> In considering whether the coastal zone boundary should be changed, the Commission found that Highway One through Watsonville was the most stable urban-rural boundary. This determination was repeated in the Commission's findings for certification of the City's LUP, on December 2, 1982: "Since its construction Highway One has functioned as an urban/rural boundary on the western edge of Watsonville." The Commission findings of December 2, 1982 further state that, "the Commission recognized this line in its decision to deny a permit for a recreational vehicle park in Area B in 1977 and in requiring that sewer services not be extended into the City's Coastal Zone areas as a condition of approving a permit for a wastewater treatment plant expansion in 1981." In approving the permit for the wastewater treatment plant expansion the Commission found, "that abandonment of Highway One as a stable urban/rural boundary by permitting development west of it could have adverse impacts on agriculture and sensitive habitats." The Commission further found, "that such development could only occur after the LUP process had examined the cumulative impacts which could result and could propose appropriate land use intensities which could be found consistent with the Coastal Act." Most recently (through their adopted findings for LCP Major Amendment 1-99 in 2000) the Commission concluded as follows: "therefore, to maintain conformance with the Coastal Act the urban-rural boundary should be retained at Highway One."

The LCP, therefore, includes very specific, stringent growth control containment provisions to circumscribe any development at Area C so as to reinforce Highway One as the primary urban-rural boundary. Accordingly, the LCP protects the public viewshed from urban intrusions (as discussed in the public viewshed finding preceding) and includes very specific legal and physical requirements limiting the extent of urban services and ensuring that they are not extended off-site, as is oftentimes the case with leap-frog development across urban-rural limit lines. The LCP also includes a policy against annexations west of Highway One, to discourage urban development west of the Highway, and includes a utility prohibition zone across which sewer and potable water utilities cannot be extended. The County recently approved their own version of the utility prohibition zone with similar safeguards on the County side of the City west of Highway One.<sup>36</sup> In essence, these provisions constitute a series of locks preventing urban development from further spreading west of the Highway.

While the high school will have urban characteristics, it must be seen as a transitional use from the intensive urban uses on the inland side of the urban-rural boundary at the Highway to the rural agricultural and habitat uses west of the Highway. The City-approved clarified project, including its legal and physical preservation of the remainder of Area C (as also discussed in the findings that follow), can be viewed as reinforcing the urban-rural boundary to prevent any further breaches in it by extinguishing

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<sup>35</sup> As described above, this approximately 75 acre area west of the Highway within the City limits was removed from the Coastal Zone in 1979 by the State Legislature, and it is currently developed with industry and a hotel and is served by public utilities.

<sup>36</sup> Santa Cruz County Major LCP Amendment 1-01 (approved by the Commission with suggested modifications at the September hearing in Eureka).



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development pressure on Area C, and ensuring that urban services are not extended off-site, per the LCP.

### Urban-Rural Boundary Conclusion

The LCP provides strong policy direction to direct urban development to urban areas with services available to accommodate it, thus protecting ESHA and agricultural lands, and maintaining the rural agrarian character of the small portion of the City, including Area C, that lies west of Highway One. The LCP identifies Highway One as the urban-rural boundary – this project does not change this distinction. The City-approved clarified project incorporates the required public service and other safeguards into the project, and has been clarified to better address the intensity of urban use inherent in a project of this size and scope, consistent with the LCP.

The Appellants raise valid urban-rural boundary and growth inducement issues with respect to the project. However, while they raise valid issues (that were potentially even substantial absent the clarifications made to the project since the City Council's approval), the City-approved clarified project is now substantially consistent with these LCP policies. Therefore these issues do not rise to the level of a substantial issue in terms of the project's conformance with the certified LCP's urban-rural boundary and growth inducement policies as cited in this finding.

### E. ESHA and Agricultural Lands and Buffers

Appellants generally contend that the development fails to legally and physically protect, restore, and enhance Watsonville Slough resources and buffers on Area C, and agricultural lands and buffers on Area C (see exhibits D through L for complete appeal documents).

These contentions primarily involve several inter-related LUP policies in LUP Sections II and III.C, and IP Sections in IP Sections 9-5.705(c) et seq and 9-5.705(g) et seq (see exhibit Y).

### Preservation of Area C

The LCP requires that the remainder of Area C not included in the school site shall be permanently preserved. The LCP states in applicable part:

*Any land on Area C not incorporated into the building envelope for a public school shall be used only for agricultural purposes, open space, or habitat restoration...*

To understand the intent of this LCP policy, one must refer to the Commission's adopted LCP findings supporting this policy (emphasis added, except where noted):<sup>37</sup>

*The intent of the staff recommendation is that **any** [note: emphasis not added] development within Area C requires that the whole of the Area C site is considered, and that development areas and preservation areas are detailed consistent with the LCP policies for Area C. If PVUSD's proposed high school development uses the 42 acre development envelope suggested*

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<sup>37</sup> Adopted findings for City of Watsonville Major LCP Amendment 1-99.



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*by the staff report, then this high school development would necessarily require consideration of the whole of the site, and protection of those areas outside of the development envelope as directed by the modified revised LCP. **If, however, PVUSD's proposed high school project does not use all of the suggested development envelope (for example, if a smaller school is pursued), then it must be clear how the remainder of the site will be protected as required by the LCP.** Likewise, if the high school project is abandoned and some other form of development is considered for Area C (for example, residential), then it will be critical to detail the overall development and preservation parameters for Area C. In the case where development other than a high school is pursued, the appropriate mechanism for implementing the LCP is through a specific plan for the entire Area C site. This will allow for equitable and appropriate distribution or consolidation of development across Area C, consistent with other performance standards (e.g. agricultural and habitat buffers).*

***However, in the case where the high school is developed, but the PVUSD does not acquire the entire suggested development envelope, the net result of such a subdivision under the staff recommendation will be a transfer of development potential from the remainder of Area C to the High School location. In other words, because of the increased intensification of Area C by the High School, which will be facilitated by a subdivision of Area C, the remainder parcel is restricted to agriculture, open space, or habitat restoration uses under LUP Policy C.5.b.6. Therefore, a specific plan is not necessary in this instance.***

...

*a provision could be added [Note: the above-referenced LUP policy that was eventually certified] requiring a public school to be sited and located as compactly as possible in a manner **to preserve the remainder of the site** in agricultural use and not be further subdivided.*

...

*Coastal scenic resource protection overlaps and interrelates with each of the issues previously discussed in this staff report. In fact, previously suggested modifications to address growth, agricultural, and ESHA Coastal Act issues, help to also address, and thus are also required by, Coastal Act scenic resource policies (e.g., Area C development envelop). **The effect of these combined modifications on the scenic character of Area C (should the site develop with other than agricultural uses) will be to allow a cluster of buildings, with appropriate external design treatments, in one portion of Area C. The remainder of the site would stay in open space (agriculture, ESHA and associated buffers).***

The City-approved clarified project includes measures to ensure that the remainder of land within Area C, outside of the area within which school facilities are planned, will be preserved for habitat purposes (within ESHA and ESHA buffer areas) or for agricultural, open space or habitat purposes (within areas outside of the ESHAs and ESHA buffers). This will be accomplished through direct acquisition by an appropriate non-profit or governmental conservation organization, and by property easements to be



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recorded over the land in question as an enforceable part of the project.<sup>38</sup> The City and the Commission's Executive Director will review and approve all such land ownerships and easements as part of the clarified project.<sup>39</sup> In this way, and as directed by the LCP, legal preservation is accomplished for the remainder lands and no additional development will take place there. In other words, as part of the package of mitigation directed by the LCP for allowing a high school use, there will be no further development (other than school facilities within the final school site) on Area C.

### ESHA and ESHA buffers

The Commission's approval of the City's LCP amendment provided that allowing an urban use at this location as intensive as a high school required mitigation over the whole of Area C as part of the approval of such a development. Applicable LCP policies include the following:

*The Applicant shall develop a wetland restoration and landscape plan with input from a qualified wetland biologist and hydrologist that incorporates, at a minimum, all of the provisions of [certified LCP Section 9-5.705(c)(4)(ii)] and that shall provide for the restoration of all buffer areas (from environmentally sensitive habitat areas and agriculture).*

*Certified LCP Section 9-5.705(c)(4)(ii): Environmentally sensitive habitat areas must be kept in a natural state and protected from intrusion of humans, domestic animals and livestock (including but not limited to adequate screening to block noise, glare, lights and visibility associated with same), from erosion, sedimentation and contaminated runoff, and from loud noise or vehicular traffic. Any development activity that alters drainage patterns to the portion of Hanson Slough at the southwestern corner of Area C shall provide for restoration of this portion of Hanson Slough to a functional wetland; this shall be provided for in a Biological Restoration Plan (Section 9-5.705(g)(4)). All environmentally sensitive habitat areas shall be buffered. There is one ESHA and at least 3 ESHA buffer areas on Area C as depicted on Land Use Plan Figure 2a; the following ESHA and buffering requirements shall be provided for by the Biological Restoration Plan (Section 9-5.705(g)(4)) as follows:*

*(aa) For the ESHA area located between the top of slope at the edge of the development envelop depicted on Land Use Plan Figure 2 and the West Branch of Struve Slough: Within this ESHA, invasive exotics shall be removed and appropriate native grasses (e.g., from a native plant palette recommended by the California Department of Fish and Game) shall be planted. A weed control plan shall be implemented to increase native plant coverage. The unimproved accessways in this area shall not be improved, and, preferably, shall be removed and revegetated. No other uses shall be allowed in this area with the exception of one area of utility crossing (i.e., one wastewater pipeline, one potable water pipeline, and associated infrastructure) provided that these utilities are otherwise allowed by this*

<sup>38</sup> See exhibits N and O for the District's clarification letters of September 13, 2001 and September 26, 2001 for specific implementation measures to assure this. Note that exhibit O incorporates exhibit U (Commission staff September 25, 2001 letter) by reference.

<sup>39</sup> In addition, the clarified project includes the requirement for a CDP to recognize all final property lines prior to exercise of the high school CDP.



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*ordinance. Any such area shall be the minimum width necessary to accommodate the utilities;*

*(ab) For the buffer area located between the top of slope at the edge of the development envelop depicted on Land Use Plan Figure 2 and Hanson Slough. Within this buffer, invasive exotics shall be removed and native grasses (e.g., from a native plant palette recommended by the California Department of Fish and Game) shall be planted. Passive recreation (such as a pedestrian trail), supervised education and active wetland restoration and research activities are allowed in this buffer;*

*(ac) For the 100 foot buffer area around the Hanson Slough riparian area located along the western boundary of Area C. Within this buffer, invasive exotics shall be removed and native grasses (e.g., from a native plant palette recommended by the California Department of Fish and Game) shall be planted; and*

*(ad) For the area along Harkins Slough Road east of Lee Road that acts as a buffer to the California Department of Fish and Game Ecological Preserve. Within this buffer, invasive exotics shall be removed and native trees, shrubs and native grasses (e.g., from a native plant palette recommended by the California Department of Fish and Game) shall be planted. Within this buffer, one access road of the minimum width necessary to accommodate the permitted use shall be allowed if otherwise allowed by this ordinance.*

*All environmentally sensitive habitat areas and environmentally sensitive habitat area buffers shall be permanently maintained and protected. Deed restrictions, open space/conservation easements, or other such legal instruments shall be required for such buffer areas.*

To understand the intent of this LCP policy, one must again refer to the Commission's adopted LCP findings supporting such policies (emphasis added, except where noted):<sup>40</sup>

*In order to address the deficiencies enumerated in the denial findings, there are two basic approaches one could take. As suggested by the Department of Fish and Game, the entire site could be considered ESHA and hence limited to uses only dependent on the habitat. USFWS likewise suggests that the high school development be directed offsite. This approach has validity when one views the Watsonville Slough system in a comprehensive manner, noting that not only have the physical wetlands shrunk by at least half, but the upland habitats for many of the creatures that use the wetlands have been converted to non open space uses. **The other approach is to recognize more limited habitat areas but to require them to be protected and to ensure that the impacts to these sensitive habitat areas from the development of the high school are adequately mitigated. Because the Commission chooses this later approach, in order to accommodate a public school, then: (1) the delineated habitat areas need to be protected and restored where necessary; (2) they need adequate buffering; and (3) the developed area needs to be designed so as not to adversely impact the habitat areas. Thus, the***

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<sup>40</sup> Adopted findings for City of Watsonville Major LCP Amendment 1-99.



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*full package of mitigation for the impacts on the slough resources includes providing for restoration of the upper finger of Hanson Slough, and the rehabilitation of the upland habitat adjacent to Hanson and West Branch Struve Sloughs. Altogether, this component of the mitigation would result in the restoration of approximately 3 acres of wetland and rehabilitation of approximately 37 acres of upland habitat through the removal of invasives and native replanting. Other components of the mitigation include ensuring that mitigations identified in the EIR for the project are appropriately incorporated into any finally approved project and that an environmental stewardship program will be added to the new school's curriculum to educate students on the values of wetlands and other sensitive habitat resources.*

Thus, the Commission's findings and suggested policy modifications and the City's subsequent adoption of them translated into specific certified LCP requirements for both enhancement and restoration of ESHAs and ESHA buffers throughout Area C. In a nutshell, these LCP requirements generally require restoration of the degraded Hanson Slough System, and a planting and invasives control program for all other ESHA and ESHA buffers.

The City-approved clarified project makes quite clear that all ESHA and ESHA buffers will be restored and/or enhanced as specifically directed by the LCP. The District is in process of preparing a revised restoration plan, with input from USFWS and CDFG biologists, that will provide the short and long-term framework necessary for such enhancement and restoration. The plan is being developed according to the exacting criteria for such plans written directly into the LCP. The plan will also include satisfactory mechanisms to ensure that adequate funding is available for both initial implementation as well as for long-term maintenance, including any remediation necessary to achieve overall goals and objectives for Area C ESHA and ESHA buffers in the future. All ESHA and ESHA buffer areas will be acquired by appropriate conservation organizations with the requisite legal property restrictions placed over these areas to ensure they are protected for habitat purposes (only) as directed by the LCP. The District, or the District via a third-party entity who ends up in possession of these habitat areas, has a legally enforceable obligation to ensure implementation of all plan elements. The City and the Commission's Executive Director will review and approve both the final plan and all habitat easements as part of the clarified project.

### Water Quality

The LCP includes very specific runoff and water quality measures. The City-approved clarified project addressees these required measures using creative BMPs (such as vegetated filter strips in the parking lot areas, the created wetland detention pond system, outletting of filtered and treated "clean" runoff to adjacent habitat areas, etc.). All runoff from vehicular areas will be filtered and treated by appropriate engineered technology (the units to be used specified by Commission water quality staff) prior to its discharge into the cascading detention pond system.

### Agricultural Lands and Buffers

The LCP requires that the remainder of Area C (outside of the school site) exclusive of the ESHA and



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ESHA buffer areas, be retained in agriculture or as open space/habitat areas.<sup>41</sup> The City-approved clarified project includes provisions to record just such a property restriction on the applicable property, and further specifies that this land will be acquired by an appropriate conservation organization as an enforceable part of the project (see also findings above). The City has provided assurance that the existing well (in the area of the school facilities) will not be capped but rather the well water will be made available to ongoing farming operations to the north of the school site. As such, and as directed by the LCP, preservation of the agricultural portion of Area C (generally north of the final school site on the flattened plateau above and to the west of the West Branch of Struve Slough) will be accomplished.<sup>42</sup>

As to agricultural buffers, and as has been discussed previously in these findings, the LCP identifies specific agricultural buffer distances for development on Area C. The City-approved clarified project assures that the school development will respect all applicable buffer requirements by providing the necessary buffer space and ensuring that adequate plantings and physical landscape barriers are established within the buffers. In addition, and again as specified by the LCP, easements to be acquired by appropriate conservation organizations will be recorded over the agricultural buffers themselves. All such easements will be provided to the City and the Commission's Executive Director for review and approval as part of the clarified project.

### ESHA and Agricultural Lands and Buffers Conclusion

The LCP requires preservation for the remainder of Area C outside of the school facilities area, requires the restoration and/or enhancement of all ESHA and ESHA buffers, requires the preservation of all remainder agricultural lands (for agricultural, open space, or habitat uses), and requires protection for agricultural buffer areas. The City-approved clarified project provides concrete physical and legal instruments with which to ensure that all such LCP requirements are met to the letter of the LCP as an enforceable part of the project. Such measures will protect and enhance the Watsonville Slough System overall, and the two branches of it located on Area C specifically (Hanson Slough and Wets Branch Struve Slough), as directed by the LCP. Agricultural lands are protected for agriculture to the maximum degree possible within the established LCP framework for this site that recognizes a finite amount of such prime agricultural land would be converted school use (roughly 30 acres).

The Appellants raise valid ESHA and agricultural preservation issues with respect to the proposed development, particularly with respect to the preservation of the remainder of Area C. However, while these issues were previously potentially substantial, the City-approved clarified project is now substantially consistent with these applicable LCP policies. Therefore, the Commission finds that these issues do not rise to the level of a substantial issue in terms of the project's conformance with the certified LCP's ESHA and agricultural preservation policies as cited in this finding.

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<sup>41</sup> As described in the findings above, the conversion of the roughly 30 acres of agricultural land where school facilities are planned is specifically allowed and envisioned by the LCP.

<sup>42</sup> Again see exhibits N and O for the District's clarification letters of September 13, 2001 and September 26, 2001. Again note that exhibit O incorporates exhibit U (Commission staff September 25, 2001 letter) by reference.



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### F. Alternative Sites Available

Appellants generally contend that because of the above-listed problems at this site (as described in their contentions and as detailed in the preceding findings) together with other pertinent issues (e.g., the contention that the School District cannot demonstrate a need for a school of this magnitude based on School District facility and student projections), there are feasible alternative sites of a similar developable area (roughly 30 acres) that are located in the applicable attendance area, that are available for development of a high school, and that would have a lesser negative impact on coastal resources and the environment than the current site approved by the City (see exhibits D through L for complete appeal documents).

These contentions primarily involve interrelated LCP policies designed to appropriately size the school (LUP Policy III.C.5.a(1) and IP Section 9-5.705(c)(5)(i)(aa)), and that require analysis of alternative sites (LUP Policy III.C.5.a(2) and IP Section 9-5.705(c)(5)(i)(ab)). LCP policies both generally applicable to Area C as well as specifically applicable to Area C are also engaged by this contention because the question of alternative sites goes to the potential for negative impacts to coastal resources, which the LCP as a whole is designed to avoid.

#### School Sizing

Appellants have raised contentions that the School District's overcrowding problem does not equate to a need for a 2,200 student high school. Based on existing capacity for the current school year as shown in the District's facilities plans as compared to the number students expected for school year 2000-2001, Appellants argue that the actual amount of current high school overcrowding ranges from 0 to 1,219 additional student spaces needed (based on the District's Facilities Master Plan Binder).<sup>43</sup> The range is provided based on the underlying assumptions used: (1) if only permanent classroom facilities are counted, then there would be a need for an additional 1,219 classroom seats; or (2) if portable units are also counted in the figures, since the District uses a large number of portable classroom units, then the District currently has 153 more seats than high school students to fill them. Furthermore, according to the Appellants and recent news coverage, there are even fewer students enrolled in school year 2000-2001 than expected, and thus these overcrowding figures, under both set of assumptions, are actually higher than the reality given the smaller number of students enrolled.<sup>44</sup>

When these figures are projected through the school year 2005-2006, the Appellants argue that the District's facilities projections show that the range of overcrowding (number of students enrolled versus number of classroom seats available) is from 181 students to 1,553 students. The range, is again, predicated on various permutations of the following underlying assumptions: (1) the District's facilities binder indicates that some expansion is planned for both Watsonville and Aptos High Schools (the question is whether or not this takes place); (2) the number of additional (i.e., not already moving through the lower grades) students that would be added to the High School mix by current, proposed, and potential housing developments in the City of Watsonville (the question is whether the full number of additional

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<sup>43</sup> At the zero end of the spectrum, the argument is that there are roughly 153 more student seats than are being used.

<sup>44</sup> See, in particular, the appeal of Peter Nichols; exhibit I.



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students from this mix is added or not); and (3) whether portable classroom units, such as the 20 portable classrooms proposed for the New Millennium High School, are included in the facility counts or not. In all cases, students moving up through the lower grades are projected.

The final accounting ranges from a need for 1,553 high school classroom seats to 181 classroom seats as follows:

Worst case scenario 2005-2006 school year: If there is no expansion of existing high school facilities, and if the full number of additional students from expected housing developments are enrolled, and if only permanent classrooms are counted, the District would need 1,553 high school seats.

Second-worst case scenario 2005-2006 school year: If there is full expansion of existing high school facilities, and if the full number of additional students from expected housing developments are enrolled, and if only permanent classrooms are counted, the District would need 1,177 high school seats.

Third-worst case scenario 2005-2006 school year: If there is full expansion of existing high school facilities, and if there are no additional students from expected housing developments enrolled, and if only permanent classrooms are counted, the District would need 858 high school seats.

Fourth-worst case scenario 2005-2006 school year: If there is no expansion of existing high school facilities, and if the full number of additional students from expected housing developments are enrolled, and if permanent and portable classrooms are counted, the District would need 181 high school seats.

According to the Appellants, two other factors that would further lessen the need for additional classroom seats are not included in the above calculations. The first is that a Catholic high school is currently being built in Watsonville that will have an approximate capacity of 500 high school students.<sup>45</sup> One would expect that some number of District high schoolers will be siphoned off to the Catholic high school when it soon opens its doors. This number of students has not been analyzed in relation to District needs and is not reflected in the above calculations. Second is that the District runs a charter high school program at the District's headquarters office. Currently 45 students are housed in these classrooms with 2 unused classrooms available and the further potential for expansion within space there. This number of students has likewise not been analyzed in relation to District needs and is not reflected in the above calculations.

The District argues that it is currently 1,843 students over the current design capacity of the existing high schools and that, based on proposed expansion of the design capacity at existing high schools will be 1,177 students over the design capacity 5 years from now.<sup>46</sup> The District then states that since further growth is expected in the 5 years after that, the overall capacity necessary would be 2,200 high school classroom seats.<sup>47</sup> It is not clear that the additional roughly 1,000 student figure (i.e.,  $1,177 + 1,023 = 2,200$ ; 1,023 being roughly 1,000) stated by the District is based in any known projections.

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<sup>45</sup> St. Francis High School.

<sup>46</sup> Note that this is the same figure arrived at by the Appellants using the second worst case scenario of: If there is full expansion of existing high school facilities, and if the full number of additional students from expected housing developments are enrolled, and if only permanent classrooms are counted, the District would need 1,177 high school seats.

<sup>47</sup> See District response to appeals (exhibit M), page 39.



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There is clearly a difference in interpretation of the same set of figures between the District and the Appellants on the expected need for additional high school space. Since the District, in consultation with the State Department of Education, is the entity charged with making such determinations, the Commission here defers to the District on the relative size and need for additional high school space. In this case, the District has determined that it needs a 2,200 student high school in the south County area to serve a high school population that has apparently outgrown, and will outgrow further in the future, the District's existing and projected high school facility needs. Based on the level of need for additional high school capacity identified by the District, the Commission defers that the District has identified the correct school size to be pursued for the third high school.

### Alternative Sites

The LCP specifically requires that the following finding be made to approve a high school on Area C:

*There is no feasible alternative location.*

The LCP "alternative site" finding requirement traces its origins to the CEQA finding for the LCP amendment that allowed public schools, and thus the high school project here, as a conditional use on Area C.<sup>48</sup> The adopted Commission findings for the LCP amendment made quite clear that development of high school on Area C was problematic because of its anticipated negative impacts on coastal resources including agriculture, ESHA, stable urban-rural boundaries, and public viewsheds. However, the Commission was tasked in the LCP amendment not with making a project-level decision on a high school project, but rather with making a plan-level decision on proposed policy changes. Given one site (Area C) with which to work, the Commission accepted the City application and the School District's chosen site within this one-site context only. Because of this, in the CEQA finding for the LCP amendment, the Commission found as follows:

*The Coastal Commission's review and development process for LCPs and LCP amendments has been certified by the Secretary of Resources as being the functional equivalent of the environmental review required by CEQA. Therefore, local governments are not required to undertake environmental analysis of proposed LCP amendments, although the Commission can and does use any environmental information that the local government has developed. CEQA requires that alternatives to the proposed action be reviewed and considered for their potential impact on the environment and that the least damaging feasible alternative be chosen as the alternative to undertake.*

*In this case, there has been no environmental document that addresses the full extent of the proposed amendment. As described in Sections 1 and 2 of this staff report, apart from the addition of the public school use, the proposed amendment allows an intensification of use in three general categories (residential, recreational, and industrial) and in over 50 subcategories. The analysis in this report concludes that there are several Coastal Act inconsistencies with such intensifications and therefore that none are authorized. Therefore, no*

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<sup>48</sup> City of Watsonville LCP amendment approved by the Commission March 2000 and certified by the Commission October 2000.



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*CEQA conclusion is necessary with regard to those aspects of the proposed amendment.*

*With regard to that portion of the proposed amendment that allows the new public school use (and at the intensified level), there has been an EIR prepared for a specific project, the proposed high school, as described in Section 2 of this report. The project examined in the EIR is not quite the most intensive public school use that could be allowed on Area C under the proposed LCP amendment, but it is close enough to be representative of the impacts that would result from this portion of the proposed amendment. The EIR does not, however, comprehensively address environmental issues. For example, a comparison of the Coastal Commission staff's comment letter of August 5, 1998 and the responses listed in the Final EIR reveals several issues that are not fully resolved. This is exemplified in the detail and recommendations of this report.*

***In conclusion the proposed amendment as submitted with respect to allowing a public school use does not represent the least environmentally damaging feasible alternative. However, this deficiency can be corrected if the City of Watsonville adopts all of the Commission's Suggested Modifications. These modifications accomplish two objectives. First, they require that the City find that there are no feasible alternative sites for whatever public school is being applied for. Second, if that finding is made, they require that several standards be applied to the approval of a specific coastal permit for a school in order to mitigate all of the adverse environmental impacts identified. Thus, if so modified, the proposed amendment will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A).***

The only way the Commission could make the requisite CEQA finding as part of its approval of the LCP amendment allowing a high school on Area C was to ensure that alternative sites were adequately analyzed as part of any high school CDP application. In other words, the CEQA alternative finding was in a sense 'deferred' until such time as a project was submitted for a coastal permit application. By the time this occurred, and the District began its final CEQA process in early 2001, the available land within Area C where a high school could be pursued consistent with the LCP had been reduced by the Caltrans Aeronautics Division evaluation to roughly 30 odd-shaped and sloping acres surrounded by sloughs nearest Harkins Slough Road.<sup>49</sup> Cognizant of the coastal resource issues surrounding development of Area C, Commission staff responded to the EIR notice of preparation (NOP), and the Draft EIR when it was released without such an analysis, with the request that good planning and public policy dictate a comprehensive alternatives analysis be undertaken. Staff also commented that the analysis should include the typical range of comparison factors (infrastructure/acreage requirements and costs, site constraint comparisons, etc.), and include mapping of the entire District and its expected future high schooler residential densities.<sup>50</sup> Instead, the Final EIR for the high school project relied heavily on the alternatives analyses previously performed by the District and reviewed by the Commission in its processing of the

<sup>49</sup> Through their approval of the LCP amendment, the Commission provided the School District with a roughly 50 acre development envelope within which to site a school. The 50 acres was provided because of the District's representations at that time that 50 acres of developable land was required for a high school.

<sup>50</sup> See Commission staff January 8, 2001 NOP and April 16, 2001 DEIR letters in exhibits V and W.



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LCP amendment approved last year.

### Conclusion

The Commission did not approve the high school project at this site when the LCP was amended. Rather, at that time, the Commission was faced with a question of whether to amend an LCP to allow a high school use on Area C, and not faced with a question of whether Area C was the least environmentally damaging feasible site within PVUSD boundaries for a high school project of this magnitude. In other words, the Commission was given only one site to review for the LCP amendment, and the Commission only focused on this one site to see if a change in use to allow a public school made sense here. The alternative sites that the District had by that time reviewed were discussed in the Commission's adopted findings only within the context of the history of the LCP amendment.

In addition, the Commission was very concerned about allowing a high school use on Area C in light of the known resource constraints and issues that would be associated with such an intensive urban use. The only way that the Commission was able to make the required CEQA finding in approving the LCP amendment was to require the City to include an LCP policy requiring that alternative sites would be evaluated in light of the expected impacts if a high school were eventually proposed on Area C. Part of the reason such an intensive use was allowed in the LCP at this location was because the District informed the Commission at that time that 50 acres was the minimum acreage that could be considered. The District is now proposing the New Millennium High School on an approximately 30 acre net site.

The City made the requisite alternative site finding based on the project's Final EIR.<sup>51</sup> The Commission notes that the District and the State Department of Education are tasked with identifying the most appropriate school site conducive to learning, safety, feasibility, and environmental impacts, and that the Department has accepted the District's alternatives analysis and has endorsed the District's site choice at Area C. Furthermore, the Commission is sensitive to the District's stated needs for a high school of this size in the south Santa Cruz County area and the District's indication that any timing delays will jeopardize their hardship funding. Therefore, the Commission defers to the City's alternatives analysis and accepts their finding that no feasible alternative sites are available. As such, the appeal alternative siting allegations do not rise to the level of a substantial issue in terms of the project's conformance with the applicable certified LCP policies as cited in this finding.

### G. Other Appeal Allegations

The nine submitted appeals fall largely and generally within the issue and sub-issue categories discussed above. These above-findings respond to the central LCP issues raised by the appeals. To the extent specific appeal allegations do not appear to have been individually addressed within this larger and broader context, the Commission finds that the appeals have been analyzed for any such issues that had any potential of raising substantial issues pursuant to the LCP and that any allegations not individually addressed above do not rise to the level of a substantial issue in terms of the City-approved clarified project's conformance with the certified LCP.

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<sup>51</sup> See exhibit B for the City's adopted findings.



## H. Substantial Issue Conclusion

The LCP reflects the Coastal Act and provides substantial safeguards to strictly limit development and protect the significant coastal resources present on and adjacent to Area C. The LCP allows a high school as a conditional use at this location subject to specific design standards and development criteria. The LCP has specific policies for geotechnical analysis and long term stability, flooding, agricultural buffers, and airport safety to help protect public health and safety. The LCP protects the agrarian viewshed and rural character of the site and surrounding area. The LCP provides strong policy direction to direct urban development to urban areas with services available to accommodate it, thus protecting ESHA and agricultural lands, and maintaining the rural agrarian character of the small portion of the City, including Area C, that lies west of Highway One. The LCP identifies Highway One as the urban-rural boundary. The LCP requires preservation for the remainder of Area C outside of the school facilities area, requires the restoration and/or enhancement of all ESHA and ESHA buffers, requires the preservation of all remainder agricultural lands (for agricultural, open space, or habitat uses), and requires protection for agricultural buffer areas. The LCP requires a finding that there is no feasible alternative location for a high school other than Area C.

The City-approved clarified project substantially addresses relevant LCP policies. More specifically it: includes LCP-directed measures to assure long-term stability; incorporates the required public service and other safeguards into the project; has been clarified to better address the intensity of urban use inherent in a project of this size and scope; retains Highway One as the urban-rural boundary; provides concrete physical and legal instruments with which to ensure that all ESHA and ESHA buffer requirements are met to the letter of the LCP as an enforceable part of the project, thus protecting and enhancing the Watsonville Slough System overall, and the two branches of it located on Area C specifically (Hanson Slough and Wets Branch Struve Slough); provides similar physical and legal safeguards so that agricultural lands are protected for agriculture to the maximum degree possible within the established LCP framework for this site that recognizes a finite amount of such prime agricultural land would be converted school use (roughly 30 acres); and includes a finding that there is no feasible alternative location available that could be used for a school of the necessary size to address the District-identified need for additional high school facilities now and in the future.

Although the Appellants raise a series of valid coastal issues, issues that were potentially even substantial prior to the clarifications made to the project since the City Council's approval, the City-approved clarified project is substantially consistent with LCP policies and these issues do not rise to the level of a substantial issue in terms of the project's conformance with the certified LCP. Therefore, the Commission finds that no substantial issue exists with respect to the full grounds of the appeals submitted and declines to take jurisdiction over the coastal development permit for the project.



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